

## Polystyrene Food Container Ordinance

### **Section 8.70.010 Title**

This Chapter may be cited as the “Prohibition on the Use of Polystyrene Based Disposable Food Containers Ordinance” of the City of Cambridge.

### **Section 8.70.020 Declaration of findings and policy—Scope.**

The City Council hereby finds that the reduction in the use of polystyrene food containers in the City of Cambridge (the “City”) is a public purpose that advances solid waste reduction and the health of its citizens. Polystyrene food containers are not recyclable, nor are they biodegradable.

### **Section 8.70.030 Definitions.**

(a) The following words shall, unless the context clearly requires otherwise, have the following meanings:

1. “Department” means the City’s Department of Public Works.
2. “Commissioner” means the City’s Commissioner of Public Works.
3. “Disposable Food Service Container” means single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This definition does not include single-use disposable items such as straws, cup lids, or utensils, nor does it include single-use disposable packaging for unprepared foods.
4. “Food Establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. Food Establishment shall include any fixed or mobile place, structure or vehicle whether permanent, transient, or temporary, private, public, or non-profit, routinely serving the public; or any other eating and drinking establishment or place in which food or drink is prepared for sale or for service to the public on the premises or elsewhere.
5. “Polystyrene” means expanded polystyrene which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term “polystyrene” shall not include clear or solid polystyrene which is known as “oriented polystyrene”
6. “Prepared Food” means any food or beverage prepared for consumption on the Food Establishment’s premises, using any cooking or food preparation technique. This does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation.

### **Section 8.70.040 Requirements.**

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Except as provided herein, Food Establishments are prohibited from dispensing Prepared Food to customers in Disposable Food Service Containers made from Polystyrene.

### **Section 8.70.050 Effective Date.**

The Chapter shall take effect one hundred and eighty (180) days from the date of enactment.

### **Section 8.70.060 Exemption.**

A. The Commissioner may exempt a Food Establishment from the requirements of this Chapter for a period of up to six (6) months, upon a finding by the Commissioner that the requirements of this Chapter would cause undue hardship to a Food Establishment. The Commissioner may approve one (1) additional 6-month period upon the showing of a continued undue hardship. An "undue hardship" shall only be found in:

1. Circumstances or situations unique to the particular Food Establishment such that there are no reasonable alternatives to Polystyrene Disposable Food Service Containers, or

2. Circumstances or situations unique to the Food Establishment such that compliance with the requirements of this Chapter would deprive a person of a legally protected right, or

3. Circumstances where a Food Establishment requires additional time in order to draw down an existing inventory of Polystyrene Disposable Food Service Containers. Any Food Establishment receiving an exemption shall file with the Commissioner monthly reports on inventory reduction and remaining stocks.

B. Any Food Establishment shall apply for an exemption to the Commissioner using forms provided by the Department, and shall allow the Commissioner, or his or her designee, access to all information supporting its application.

C. The Commissioner may approve the exemption request, in whole or in part, with or without conditions.

D. The Commissioner, by regulation, may establish a fee for exemption requests.

### **Section 8.68.070 Enforcement.**

A. Fine. Any Food Establishment who shall violate any provision of this Chapter shall be liable for a fine of not more than \$300 and each day's violation shall constitute a separate offense.

B. Whoever violates any provision of this Chapter may be penalized by a noncriminal disposition as provided in G.L. c. 40, §21D. For purposes of this section, the Commissioner of the Department of Public Works, the Executive Director of the License

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Commission, the Executive Director of the Inspectional Services Department and the Commissioner of the Health Commission, or their designees shall be enforcing persons.

**Section 8.68.080 Severability.**

It is the intention of the City Council that each separate provision of this Chapter shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this Chapter be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this Chapter shall remain valid and enforceable.

City of Cambridge Recycling Advisory Committee  
March 19, 2013

**Communication to Public Works Commissioner on City Council's Request for input on Possible Ban on Polystyrene-Based Disposable Food Containers**

The City Council asked the Recycling Advisory Committee (RAC) for input regarding a possible ban on polystyrene-based disposable food containers, take-out and beverage containers, similar to a by-law recently passed at a Brookline Town meeting.

**RAC recommends that the City adopt policies that favor or incentivize reusable and/or compostable containers (with a compost collection infrastructure) and reduce or discourage single-use service ware. Zero waste goals and drastically reducing waste are the bottom line. A possible ban on Expanded Polystyrene (EPS) is just a step towards these larger goals. After several discussions on this issue at our January, February and March meetings, RAC does not have an official position on whether to ban EPS. In order to consider this, we will:**

- 1. Form a subcommittee on materials and extended producer responsibility and invite members of the Climate Protection Committee to participate.**
- 2. Conduct further research and review of resources that DPW staff has identified which discuss the health and environmental impacts of EPS. These resources include CalRecycle, Clean Water Action, Green Restaurant Association, You Know Styrene.org, and scientific articles that look at migration of styrene from plastic packaging into food, by-products of this migration in the form of hormone disruptors, and lifecycle assessments of different packaging materials.**

Regarding a possible ban on EPS, RAC has the following questions:

- What is the motivation? Health? Environmental? It's not accepted for recycling? Aesthetics?
- Is EPS's bad reputation justified? Is there a place for EPS since it is inexpensive and inert in the landfill? What about incineration, since City trash is also burned? Are the environmental impacts inflated?
- What are the conclusions of lifecycle assessments of different packaging materials related to greenhouse gas emissions, resource use, trash generation, pollution, litter, etc.?
- Is the proposed ban for polystyrene or just "expanded polystyrene", also known as "Styrofoam"?
- What food service establishments would be affected?
- Who will enforce the ordinance?
- Would this include Styrofoam trays used in the school cafeterias? If so, what are the costs for the City?
- Given that zero waste goals focus more on "upstream" strategies versus "downstream", does a ban on Styrofoam lead us to zero waste?

The RAC provides advice, assistance and recommendations on the City's recycling, toxics reduction and waste prevention programs, and implementation of strategies to meet the goals in the City's Climate Protection Plan and the MA Solid Waste Master Plan. We understand that DPW's climate goals include seeking bans on "problem materials", those that are expensive to recycle, have limited recycling markets, and public health and environmental concerns. We agree that reducing and reusing materials are priority strategies, while recycling is the last resort for diverting materials from incineration or landfill.